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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-093, A-428-846, A-201-849]

Refillable Stainless Steel Kegs from the People's Republic of China, the Federal Republic of Germany, and Mexico: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable October 10, 2018.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer at (202) 482-0410 and Aimee Phelan at (202) 482-0697 (the People's Republic of China (China)); Michael A. Romani (202) 482-0198 and Andre Gziryan (202) 482-2201 (the Federal Republic of Germany (Germany)); and, Allison Hollander (202) 482-2805 (Mexico); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On September 20, 2018, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) Petitions concerning imports of refillable stainless steel kegs (kegs) from China, Germany, and Mexico, filed in proper form on behalf of the American Keg Company

LLC (the petitioner), a domestic producer of kegs.¹ The AD Petitions were accompanied by a countervailing duty (CVD) Petition concerning imports of kegs from China.²

From September 25, to October 1, 2018, we requested information from the petitioner pertaining to the scope of the investigations and certain allegations contained within the petitions.³ The petitioner supplemented the record in response to these requests.⁴

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of kegs from China, Germany, and Mexico are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the

¹ See the petitioner's Letter, "Petitions for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from Germany, Mexico, and the People's Republic Of China and Countervailing Duties on Imports of Refillable Stainless Steel Kegs from the People's Republic Of China," dated June 20, 2018 (Petitions).

² See the Petitions at Volume V.

³ See Commerce Letter, "Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from the People's Republic of China, the Federal Republic of Germany, and Mexico: Supplemental Questions," dated September 25, 2018; and, "Petitions for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from the People's Republic of China, the Federal Republic of Germany, and Mexico, and Countervailing Duty Imports from the People's Republic of China: Supplemental Questions," dated September 25, 2018. See also, Commerce Letters including a questionnaire as an addenda thereto both titled "Petitions for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from the People's Republic of China: Supplemental Questions," dated September 25 and 26, 2018, respectively; "Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from Germany: Supplemental Questions," dated September 25, 2018; and, Commerce Letters including a questionnaire as an addenda thereto both titled "Petitions for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from the People's Republic of Mexico: Supplemental Questions," dated September 25 and 26, 2018, respectively. See also Commerce Memoranda, "Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from the People's Republic of China: Phone Call with the Counsel for the Petitioner," dated October 1, 2018; "Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from the Federal Republic of Germany: Phone Call with the Counsel for the Petitioner," dated October 1, 2018; and, "Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from Mexico: Phone Call with the Counsel for the Petitioner," dated October 1, 2018.

⁴ See the petitioner's Letters, "Supplement to the Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from China: Resubmission of Response to the Department's Supplemental Questions," dated September 27, 2018; and, "Supplement to the Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from Mexico and Germany: Resubmission of Response to the Department's Supplemental Questions," dated September 28, 2018 (General Issues Supplement). See also the petitioner's Letters, "Supplement to the Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from China: Resubmission of Response to the Department's Supplemental Questions," dated October 2, 2018; "Supplement to the Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from Germany: Resubmission of Response to the Department's Supplemental Questions," dated October 2, 2018; and, "Supplement to the Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from Mexico: Resubmission of Response to the Department's Supplemental Questions," dated October 2, 2018.

Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing kegs in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioner is requesting.⁵

Period of Investigations

Because the Petitions were filed on September 20, 2018, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Germany and Mexico investigations is July 1, 2017, through June 30, 2018. Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI is January 1, 2018, through June 30, 2018.

Scope of the Investigations

The product covered by these investigations are kegs from China, Germany, and Mexico. For a full description of the scope of these investigations, *see* the Appendix to this notice.

Comments on Scope of the Investigations

During our review of the Petitions, we contacted the petitioners regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.⁶ As a result, the scope of the Petitions was modified to clarify the description of merchandise covered by the Petitions. The description of

⁵ See the “Determination of Industry Support for the Petition” section, *infra*.

⁶ See General Issues Supplement, at 1-9; *see also* Revised Scope, at Exhibit 1.

the merchandise covered by these investigations, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the preamble to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).⁷ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,⁸ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on October 30, 2018, which is 20 calendar days from the signature date of this notice.⁹ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on November 9, 2018, which is 10 calendar days from the initial comments deadline.

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service

⁷ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁸ See 19 CFR 351.102(b)(21) (defining "factual information"). See also the petitioner's Letter, "Supplement to the Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel kegs from China: Response to the Department's Supplemental Questions," dated September 27, 2018, at General Issues – 1.

⁹ See 19 CFR 351.303(b).

System (ACCESS).¹⁰ An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of kegs to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production accurately, as well as, to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe kegs, it may be that only a select few product characteristics take into account commercially meaningful

¹⁰ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on October 30, 2018, which is 20 calendar days from the signature date of this notice.¹¹ Any rebuttal comments must be filed by 5:00 p.m. ET on November 9, 2018. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

¹¹ See 19 CFR 351.303(b).

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹² they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹³

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petitions).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.¹⁴ Based on our analysis of the information submitted on the record, we have determined that kegs, as defined in the scope,

¹² See section 771(10) of the Act.

¹³ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁴ See Volume I of the Petitions, at 33-36.

constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁵

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigation,” in the Appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2017.¹⁶ The petitioner states that there are no other known producers of kegs in the United States; therefore, the Petitions are supported by 100 percent of the U.S. industry.¹⁷

Our review of the data provided in the Petitions, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.¹⁸ First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).¹⁹ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of

¹⁵ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklists: Refillable Stainless Steel Kegs from the People’s Republic of China (China AD Initiation Checklist); Refillable Stainless Steel Kegs from the Federal Republic of Germany (Germany AD Initiation Checklist); and, Refillable Stainless Steel Kegs from Mexico (Mexico AD Initiation Checklist), at Attachment II, “Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Refillable Stainless Steel Kegs from the People’s Republic of China, the Federal Republic of Germany, and Mexico” (Attachment II). These checklists are dated concurrently with this notice and are on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

¹⁶ *See* Volume I of the Petitions, at 49 and 51.

¹⁷ *Id.*, at 5-6 and Exhibit GEN-10; *see also* General Issues Supplement, at 10-18 and Exhibit SUPP-GEN-6.

¹⁸ *Id.*

¹⁹ *Id.*; *see also* section 732(c)(4)(D) of the Act.

the total production of the domestic like product.²⁰ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.²¹ Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the AD investigations that it is requesting that Commerce initiate.²²

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²³

The petitioner contends that the industry's injured condition is illustrated by a significant volume of subject imports and an increasing share of subject imports relative to total imports; underselling and price depression or suppression; recent declines in production and capacity utilization; negative effects on the domestic industry's investment, cash flows, and inventories;

²⁰ See China AD Initiation Checklist, at Attachment II; Germany AD Initiation Checklist, at Attachment II; and Mexico AD Initiation Checklist, at Attachment II.

²¹ *Id.*

²² *Id.*

²³ See Volume I of the Petitions, at 37-38.

decline in the domestic industry's financial performance; and lost sales and revenues.²⁴ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as cumulation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁵

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value that are the basis for Commerce's decision to initiate AD investigations of imports of kegs from China, Germany, and Mexico. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific AD Initiation Checklists.

Export Price

For China, the petitioner based U.S. export price (EP) on a price quote for kegs produced in, and exported from China and offered for sale in the United States.²⁶ For Germany, the petitioner based EP on a price quote for kegs produced in, and exported from, Germany and offered for sale in the United States.²⁷ For Mexico, the petitioner based EP on the average unit value for exports of kegs from Mexico to the U.S. market using data compiled by Descartes Datamyne.²⁸ Where appropriate, the petitioner made deductions from U.S. price for foreign brokerage and handling, foreign inland freight, and ocean freight, consistent with the terms of sale as applicable.²⁹

²⁴ *Id.* at 23-33, 37-53, and Exhibit GEN-35; *see also* General Issues Supplement, at 18-33 and Exhibit SUPP GEN-7.

²⁵ *See* China AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Refillable Stainless Steel Kegs from the People's Republic of China, the Federal Republic of Germany, and Mexico (Attachment III); Germany AD Initiation Checklist, at Attachment III; and Mexico AD Initiation Checklist, at Attachment III; China AD Initiation Checklist, at Attachment III

²⁶ *See* China AD Initiation Checklist.

²⁷ *See* Germany AD Initiation Checklist.

²⁸ *See* Mexico AD Initiation Checklist.

²⁹ *See* China AD Initiation Checklist, Germany AD Initiation Checklist, and Mexico AD Initiation Checklist.

Normal Value

For Germany and Mexico, the petitioner was unable to obtain home market or third-country prices for kegs; therefore, the petitioner calculated NV based on constructed value (CV) pursuant to section 773(a)(4) of the Act. *See* the section “Normal Value Based on Constructed Value” below.³⁰

With respect to China, Commerce considers China to be an NME country.³¹ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.³² In the course of this investigation, all parties, and the public, will have the opportunity to provide relevant information related to the granting of separate rates to individual exporters.

The petitioner claims that Brazil is an appropriate surrogate country for China because it is a market economy country that is at a level of economic development comparable to that of China and it is a significant producer of comparable merchandise.³³ The petitioner provided publicly available information from Brazil to value all FOPs.³⁴ Therefore, based on the

³⁰ In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for these investigations, Commerce will request information necessary to calculate the CV and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

³¹ *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying decision memorandum, *China's Status as a Non-Market Economy*, unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

³² *See* China AD Initiation Checklist.

³³ *See* Volume II of the Petitions, at 4-5 and Exhibit PRC AD-5.

³⁴ *Id.* at 5-7 and Exhibits PRC-AD-3 and PRC-AD-9.

information provided by the petitioner, we determine that it is appropriate to use Brazil as the primary surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Based on its assertion that information regarding the FOPs and volume of inputs consumed by Chinese producers/exporters of kegs was not reasonably available, the petitioner used its own consumption rates for 1/2 barrel kegs to estimate the Chinese manufacturers' FOPs.³⁵ The petitioner valued the estimated FOPs using surrogate values from Brazil reported in U.S. dollars, as noted above.³⁶ The petitioner calculated factory overhead, SG&A, and profit based on the experience of a Brazilian producer of steel wheels.³⁷

Normal Value Based on Constructed Value

For Germany and Mexico, pursuant to section 773(a)(4) of the Act, the petitioner calculated cost of manufacture (COM) using its own input FOPs and usage rates for raw materials, labor, energy, packing, and a scrap offset.³⁸ The input FOPs were valued using publicly available data on country-specific costs.³⁹ Specifically, the prices for raw material and packing inputs were based on publicly available import data for Germany and Mexico,

³⁵ See China AD Initiation Checklist.

³⁶ *Id.*

³⁷ *Id.*

³⁸ See section 773(b)(3) of the Act. See also Germany AD Initiation Checklist and Mexico AD Checklist.

³⁹ See Germany AD Initiation Checklist and Mexico AD Initiation Checklist.

respectively.⁴⁰ Labor and energy costs were valued using publicly available sources for Germany and Mexico, respectively.⁴¹ The petitioner calculated factory overhead, SG&A, and profit for Germany based on the experience of a German steel producer.⁴² The petitioner calculated factory overhead, SG&A, and profit for Mexico based on the experience of a Mexican producer of stainless steel sheets, and steel products.⁴³

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of kegs from China, Germany, and Mexico are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for kegs for each of the countries covered by this initiation are as follows: (1) China – 204.42 percent;⁴⁴ (2) Germany – 72.80 percent;⁴⁵ and (3) Mexico – 18.48 percent.⁴⁶

Initiation of Less-than-Fair-Value Investigations

Based upon the examination of the Petitions, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of kegs from China, Germany, and Mexico are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ See Germany AD Initiation Checklist and Mexico AD Initiation Checklist.

⁴⁴ See China AD Initiation Checklist.

⁴⁵ See Germany AD Initiation Checklist.

⁴⁶ See Mexico AD Initiation Checklist.

Respondent Selection

The petitioner identified 26 producers/exporters as accounting for the majority of exports of kegs to the United States from China.⁴⁷ In accordance with our standard practice for respondent selection in AD cases involving NME countries, for China we intend to issue quantity and value (Q&V) questionnaires to producers/exporters of merchandise subject to this investigation. In the event Commerce determines that it cannot individually examine each company, where appropriate, Commerce intends to select mandatory respondents based on the responses received to its Q&V questionnaire. Commerce will request Q&V information from known exporters and producers identified with complete contact information in the Petition.

The petitioner identified three and five producers/exporters as accounting for the majority of exports of kegs to the United States from Germany and Mexico, respectively.⁴⁸ Following standard practice in AD investigations involving market economy countries, Commerce would normally select respondents based on U.S. Customs and Border Protection (CBP) data for imports under the appropriate HTSUS numbers listed in the scope of the investigations. However, for these investigations, the HTSUS numbers under which the subject merchandise would enter, *i.e.*, 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050, are basket categories containing a wide variety of manufactured steel products unrelated to kegs, and thus, in this case we cannot rely on CBP entry data for respondent selection purposes. Accordingly, we intend to issue Q&V questionnaires to each potential respondent identified in the Germany and Mexico Petitions. In the event Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on Q&V questionnaires

⁴⁷ See Petitions Volume I at Exhibit GEN-23.

⁴⁸ *Id.*

issued to potential respondents.

Exporters and producers of kegs from China, Germany, and Mexico that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from the Enforcement and Compliance web site, at <http://trade.gov/enforcement/news.asp>. Responses to the Q&V questionnaire must be submitted by the relevant Chinese, German, and Mexican exporters/producers no later than 5:00 p.m. ET on October 24, 2018, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically *via* ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.⁴⁹ The specific requirements for submitting a separate-rate application in this investigation are provided in the application itself, which is available on Commerce's web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.⁵⁰ Exporters and producers who submit a separate-rate application and which have been selected as mandatory respondents will only be eligible for consideration for separate-rate status if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate-rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of

⁴⁹ See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

⁵⁰ Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁵¹

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of China, Germany, and Mexico *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

⁵¹ See Policy Bulletin 05.1 at 6 {emphasis added}.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of kegs from China, Germany, and/or Mexico are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination will result in the investigations being terminated with respect to that country.⁵² Otherwise, the investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁵³ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁵⁴ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

⁵² *Id.*

⁵³ *See* 19 CFR 351.301(b).

⁵⁴ *See* 19 CFR 351.301(b)(2).

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁵⁵ Parties must use the certification formats provided in 19 CFR 351.303(g).⁵⁶ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

⁵⁵ See section 782(b) of the Act.

⁵⁶ See also *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Instructions for filing such applications may be found on Commerce's Web site at <http://enforcement.trade.gov/apo>.

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Date: October 10, 2018.

Appendix

Scope of the Investigations

The merchandise covered by these investigations are kegs, vessels, or containers that are approximately cylindrical in shape, made from stainless steel (*i.e.*, steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight, with or without other elements), and that are compatible with a “D Sankey” extractor (commonly known as a “D Coupler” or “Sankey”) (refillable stainless steel kegs) with a nominal liquid volume capacity of 10 liters or more, regardless of the type of finish, gauge, thickness, or grade of stainless steel, and whether or not covered by or encased in other materials. Refillable stainless steel kegs may be imported assembled or unassembled, with or without all components (including spears, couplers or taps, necks, collars, and valves), and be filled or unfilled.

“Unassembled” or “unfinished” refillable stainless steel kegs include drawn stainless steel cylinders that have been welded to form the body of the keg and welded to an upper (top) chime and/or lower (bottom) chime. Unassembled refillable stainless steel kegs may or may not be welded to a neck, may or may not have a valve assembly attached, and may be otherwise complete except for testing, certification, and/or marking.

Subject merchandise also includes refillable stainless steel kegs that have been further processed in a third country, including but not limited to, attachment of necks, collars, spears or valves, heat treatment, pickling, passivation, painting, testing, certification or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the in-scope refillable stainless steel keg.

Specifically excluded are the following:

- (1) vessels or containers that are not approximately cylindrical in nature (*e.g.*, box, “hopper” or “cone” shaped vessels);
- (2) stainless steel kegs, vessels, or containers that have either a “ball lock” valve system or a “pin lock” valve system (commonly known as “Cornelius,” “corny” or “ball lock” kegs);
- (3) necks, spears, couplers or taps, collars, and valves that are not imported with the subject merchandise; and
- (4) stainless steel kegs that are filled with beer, wine, or other liquid and that are designated by the Commissioner of Customs as Instruments of International Traffic within the meaning of section 332(a) of the *Tariff Act of 1930*, as amended.

The merchandise covered by these investigations are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.00.0050, 7310.29.0025, and 7310.29.0050.

These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of these investigations is dispositive.